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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,532	04/07/2004	James T. Mihm	42P17838	8308

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INTEL CORPORATION
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EXAMINER

PATEL, HARESH N

ART UNIT	PAPER NUMBER
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2154

MAIL DATE	DELIVERY MODE
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10/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/820,532

Applicant(s)

MIHM ET AL.

Examiner

Haresh Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-25 are subject to examination.

Response to Arguments

2. Applicant's arguments filed 7/23/07 have been fully considered but they are not persuasive. Therefore, rejection of claims 1-25 is maintained.

Applicant argues, regarding the obviousness type of double patenting rejection over Autry, for server management operational code and baseboard management controller.

The examiner respectfully disagrees in response to applicant's arguments. Among several reasons, first, the independent claim 1 does not even contain baseboard management controller. Second, the independent claim 20 does not even contain both the server management operational code and the baseboard management controller. Regarding the IPMI document content, when reviewing a reference one should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. **In re Preda, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963).** Skill in the art is presumed. **In re Sovish, 769 F. 2d 738, 226 USPQ 771 (Fed. Cir. 1985).** Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. **In re Jacoby, 309 F. 2d 513, 135 USPQ 317 (CCPA 1962).** The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. **In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969).** Every reference relies to some

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extent on knowledge of persons skilled in the art to complement that which is disclosed therein.

In re Bode, 550 F. 2d 656, 193 USPQ 12 (CCPA 1977). Therefore, the rejection is maintained.

Applicant argues, regarding the obviousness type of double patenting rejection over 10/821,037 for operational code for server management operational code.

The examiner respectfully disagrees in response to applicant's arguments. Among several reasons, first, the independent claim 20 does not even contain both the server management operational code and the baseboard management controller. Second, the independent claim 14 does not even contain both the server management operational code and the baseboard management controller. Therefore, the rejection is maintained.

Claim Objections

3. Claim 20 is objected to because of the following informalities:

Claim 20 mentions, "if", which should be --when-- (similar to the amended claim 14 as per the remarks).

Appropriate correction is required.

Double Patenting

4. Claims 1-25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of Autry, U.S. Patent No. 6,990,577, as per office action, paper dated 3/23/2007.

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5. Claims 1-25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-37 of copending application, 10/821,037, as per office action, paper dated 3/23/2007.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Haresh Patel

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9/28/07 ~~H. Patel~~
Hares Patel